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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/575,050

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EXAMINER

BRUTUS, JOEL F

ART UNIT

PAPER NUMBER

3768

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/575,050	Applicant(s) AKIZUKI, NAOMICHI	
	Examiner JOEL F. BRUTUS	Art Unit 3768	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/3/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10,769,375. Although the conflicting claims are not identical, they are not patentably distinct from each other because.

Regarding claim 1, co-pending claim teaches all other limitations of the claimed invention; except a display mean.

However, one with ordinary skill in the art at the time the invention was made would have been motivated to modify the co-pending claim by adding a display or monitor; in order to visualize the procedure and to diagnose tubular organs with great accuracy and higher precision.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishigaki et al (US Pat: 4,905,082) stand alone.

Regarding claims 1-2, Nishigaki et al teaches an endoscope system that pertains the claimed invention. Nishigaki et al further teaches as schematically shown in FIG. 2, a rigid video endoscope system 1 according to a first embodiment comprises a rigid video endoscope 2 which can be inserted into a hollow organ to provide image signals relating to a portion to be observed; a camera control unit (hereinafter referred to as a "CCU") to which the rigid video endoscope (2) according to the first embodiment is connected; and a color monitor (4) having a signal cable connected to a signal output terminal of the CCU 3 and providing a visual display of video signals which are input to the color monitor 4 through the signal cable [see column 5 lines 24-28]. A channel pipe fitted into the instrument channel through-hole 734, and an instrument channel tube is connected to the rear end of the channel pipe which forms the instrument channel [see column 37 lines 23-27].

The CCD outputs a read-out image signal to a video processing circuit (this feature is used for the same purpose as a computer) and Applicant discloses that in [see 0030], the pipe conversion is processed by the use of a computer and therefore, the video processing circuit is used as the pipe projection converting mean since it has the ability of converting video signal into other types of signals. The read-out image signal is converted into a corresponding NTSC composite video signal by a video processing circuit 29, and a corresponding color visual display is provided at the color monitor [see column 6 lines 30-40]. During a diagnose using a rigid endoscope such

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as described above, there are some instances wherein a TV camera is attached to the eyepiece unit of the rigid endoscope to record an endoscopic image in preparation for subsequent detailed examinations or for the purpose of comparing variations in a symptom [see column 1 lines 38-45]. Accordingly, an image of the portion to be observed can be smoothly recorded and reproduced by converting light signals into electrical signals by using the solid state imaging device as an imaging means and by adopting a frame sequential system as a control system, and various image processing such as enlargement of an image and comparison of two images can be readily performed.

Nishigaki et al doesn't teach pipe projection converting mean and mosaic processing mean to form a developed still image generating mean.

However, a control apparatus (123, see fig 14) that is provided with a mosaic type processing circuit (denoted 145 in fig 14) and [see column 12 lines 27-30]; with the control apparatus, the mosaic processing circuit along with the video processing circuit would form the developed still image generating unit; because the two circuits would be able to form developed image of tubular organ and mosaic processing and filters would cut out the strip of each frame.

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to combine these references; for the purpose of increasing visualization and providing a digital image with high resolution. The use of a mosaic seems however to be a better choice than a key-frame, when it is wanted to show the whole video shot in a single panoramic view of background information.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishigaki et al (US Pat: 4,905,082) stand alone in view of Ueda et al (US Pat: 5,681,260).

Regarding claim 3, all other limitations are taught as set forth by the above teaching.

The above teaching is silent to capsule type radio video camera.

However, Ueda et al teaches a capsule type endoscope passing through a large intestine [see fig 75] and TV camera is fitted to an eyepiece part of the endoscope to pick up video signals [see column 7 lines 30-45].

Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to combine these references by using a capsule type endoscope; for the purpose of accessing hidden internal areas that are hard to diagnose non-invasively; and because capsule type devices are swallowable therefore there is no need to break the skin. Although it is invasive but, capsule type device eliminate the risk of infections.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOEL F. BRUTUS whose telephone number is (571)270-3847. The examiner can normally be reached on Mon-Fri 7:30 AM to 5:00 PM (Off alternative Fri).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on (571)272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. F. B./
Examiner, Art Unit 3768

/Long V Le/
Supervisory Patent Examiner, Art Unit 3768